Public Service Pension Plan Board

1990

ANNUAL

REPORT

Alberta

GOVERNMENT PENSION BOARDS

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June 1991

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Public Service Pension Plan Board for the period January 1, 1990 to December 31, 1990. The report outlines the roles and responsibilities of the Public Service Pension Plan Board under the legislation governing the plan.

Board activities, during the period under review, with respect to its appellate and advisory roles are described in the report.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

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INTRODUCTION

The calendar year 1990 is the fifth year of operation of the Public Service Pension Plan Board. The Board was established November 1, 1985 under the Public Service Pension Plan Act. At March 31, 1991 there were 51,769 active participants and 10,913 pensions in payment.

The main responsibilities of the Board are:

- to hear appeals of administrative decisions on pensions made by the Minister,
- to extend time limits under section 10 of the Act and under reciprocal agreements, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of five members who are appointed by the Lieutenant Governor in Council, representing employees, employers and the Government.

A description of the Board's appellate role is provided and a sample of appeals considered is included.

The roles of the Board are split between quasi-judicial and advisory. The quasi-judicial role of the Board is summarized in the section Summary of Appeals. A sample of appeal cases is provided for information. The advisory role is discussed in the section Advice. In addition, a detailed summary of specific recommendations is found in Appendix C regarding:

1. Funding
2. COLA
3. Pension Reform
4. Prior Service
5. Division of Pension Benefits on Marriage Breakdown

CHAIRMAN'S REPORT

In preparing my comments for the year 1990, I pause to reflect on the Alberta Pension System over the years. For many years Alberta's Public Service Pension System was one of the leaders in Canada. Many other provinces looked to the Alberta System for leadership. This was evident when Alberta took the lead role in forming the Association of Canadian Public Service Pension Advisors in 1973. The main issue of that day was the importance of permitting public service employees to move from one level of government to another. For the most part, the goal of the first annual conference has been met. More recently, general portability of pensions has become one of the key issues in pension reform.

In addition, new issues have emerged. The financial risk of the existing system has grown to the point where it is questionable whether it can be managed on the strength of a government guarantee alone. In attempting to find new ways of managing this growing financial risk, we must consistently remind ourselves that pensions are no longer a reward for long and faithful service; it is now public policy that they be considered as deferred wages. A pension plan is a benefit offered to current employees to help them face old age knowing that they have a certain level of purchasing power. To ignore this would be "breaking faith" with public servants who over their careers have faithfully served the government and taxpayers. Any modification to the plan must be done in a way to preserve the integrity of the plan.

The pension system in general is in the midst of reform as sponsors and beneficiaries attempt to strike a balance between risk and promises. Various provincial jurisdictions have moved ahead with private and public sector reform - often the result of long processes of consultation and consensus building. The federal government is also showing an interest in pensions as witnessed by its "Tax Reform" package, which attempts to bring increased equity into the retirement system. Many of the recommendations summarized in this report attempt to respond to these issues within the context of the Public Service Pension Plan.

Change, however, is a difficult process to initiate and manage. There is risk involved in change, but there is greater risk involved in not changing when it is required. Much like a frog in water who fails to respond to the water being heated until it is too late, failure to respond to a changing environment can have catastrophic results.

Apart from making specific recommendations, the Board has focused on the need for change and the process of bringing about change. The annual seminar brought together Board members, employees, employers, retired public servants and government representatives to address a basic question:

"How well do the current structures which deliver public sector pensions in Alberta serve its public servants and taxpayers, and is there a better way?"

The discussion was led by a panel which included Mr. Keith Ambachtsheer, a highly respected consultant in the industry, Mr. Al Reeve, the Executive Director of the Ontario Municipal Employees Retirement System (OMERS) and Mr. Al O'Brien, the Deputy Provincial Treasurer of Alberta. The perspectives presented by the speakers and participants created a greater sense of awareness among the various stakeholders. A consensus emerged that now is the time for change in a managed fashion.

With that agreement in mind, the Board sponsored a proposal to institute a formal process to decide how best to deliver public service pensions in the 1990's starting with the basic principles of governance and funding. The view was that such a process should consider

1. Understanding current pension delivery structures and alternatives to them.

2. Weighing the pros and cons of available choices.

3. Deciding the future direction and delivery structures to meet future needs.

Changes experienced in other jurisdictions have made available a wide choice of alternatives. Public sector pension systems now vary substantially across the country as each province developed different models. Weighing the pros and cons of each and deciding which model should be used requires a formal process. That process should be based firmly on consultation.

The Minister has indicated that changes to "funding, benefits and administrative provisions" in addition to changes required to comply with federal tax reform are being contemplated.

If adjustments are to be made to the plan, it is important that adequate time be committed for consultation with all parties involved. Changes must insure that the plan is viable and meets the needs of all beneficiaries for years to come. A clear plan must be established to deal with the accrued liabilities of the plan, funding of current service and benefits for members. The incidence of risk must be examined and all beneficiaries given adequate tools to manage the risk they are asked to bear. If these steps are not taken, then the value of the plan may be lost to those beneficiaries who need it the most.

THE BOARD

Representation on the Board from all interested parties is guaranteed by its make-up. The employees and retired employees are represented by two members appointed by the Alberta Union of Provincial Employees (AUPE). Alternating terms guarantee a consistent and informed voice on behalf of those affected.

The employer's interest is satisfied by the appointment of a member from Personnel Administrative Office (PAO). PAO represents all employers who participate in the plan.

The Government, as representative of the public, has a member, who is responsible directly to the Minister. By assigning a person not employed by the Government in this capacity there is wider representation.

The Chairman is appointed by the Lieutenant-Governor-in-Council and is responsible for the leadership at Board hearings and meetings.

In support of the Board a small but efficient staff provides professional and technical service. The staff has been stable during the year. This stability has been of benefit as consistent service and advice is provided to the Board.

J. E. Faries

Mr. Jerry Faries was appointed Chairman effective November 1, 1985. He has considerable background in pension policy and administration, having served over fifteen years as Director of the Pension Administration until December 31, 1979. He was a founding Director of the Association of Canadian Pension Management and was involved as Chairman of the Advisory Board of the Employee Benefit Certificate Program of the University of Alberta. He also holds several senior positions on other boards and community organizations. His term of office expires on April 1, 1992.

A. F. (Chip) Collins

"Chip" Collins served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins was appointed a Board Member and Vice-Chairman of the Board effective November 1, 1985. He brings to the Board extensive financial and administrative expertise as well as senior public service experience. Mr. Collins is a government representative. His term of office expired on April 1, 1991.

G. Heise

Mr. Gilbert Heise, representing the employer, was appointed to the Board November 1, 1985. He has extensive experience in the employee benefit field. He is currently the Manager of Benefits and Salary Administration, Personnel Administration Office. His term of office expires on April 1, 1992.

D. J. Horbach

Mrs. Deborah Horbach received her education in Saskatchewan and attended various short courses through the Alberta Union of Provincial Employees. She has held various positions with the Treasury Branches in Lloydminster. She was a member and Vice-Chairman of the Benefits Board of Trustees for six and two years respectively. She was also a member of the Pension Board Advisory Council. Her term of office expires on April 1, 1992.

M. J. Poulter

Mr. Michael Poulter represents the employees. He attended the University of Alberta and has taught in both England and Alberta. He is a senior instructor at the Vocational College at Grouard and until recently program head, Local Government Administration. His involvement with the Alberta Union of Provincial Employees dates from 1972, and he has served for three terms as Vice President. His term of office expired on April 1, 1991.

SUMMARY OF APPEALS

Provisions

The Act provides that decisions of the Minister, which adversely affect plan members' rights under the pension plan in any of the following areas, can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications, at its discretion.

The provisions dealing with applications under section 10 and appeals under section 35 are outlined for easy reference in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board under section 36 of the Act may appeal to the Court of Queen's Bench within 30 days on questions of law or jurisdiction.

Procedure

A ministerial prescribed Notice of Appeal form is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury with any adverse administrative decision. The aggrieved member must complete and submit this form when filing an appeal to the Board. It may also be used for applications for time limit extensions under the Act or under reciprocal transfer agreements.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how these should be presented.

Though hearings are conducted in an informal manner, the Board is guided by the pension legislation and adheres to the principles of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before it for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

Summary of Appeals and Applications (1990)

During 1990 the PSPP Board decided on 15 appeals and applications, compared to 24 dealt with in the previous year. The Board granted or varied 73% and 63% of the cases in 1990 and 1989 respectively.

In 1990, 93% of the appellants and applicants or their representatives attended their hearings before the Board. This compares to 79% in 1989.

Summary of Appeals and Applications for 1990, by categories, with comparative figures for 1989 - PSPP Board

	1990			1989		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	5	33%	100%	10	42%	60%
Time Limit Extensions (Section 10)	4	27%	100%	7	29%	100%
Appeals (Section 35)	6	40%	33%	7	29%	29%
TOTAL	15	100%	73%	24	100%	63%

Two appeals were filed but did not require a hearing by the Board - the appeal provision was relied upon to facilitate a resolution and the cases were either granted by Payroll and Pensions Division (P & P) or withdrawn.

The following is intended to provide a cross-section of appeals and applications and is not an exhaustive description of cases heard by the Board.

Appeal 1 - Designation of Beneficiary

The appellant stated that at the time of retirement, he was permanently separated from his former wife who, through the years of separation (about 3 years), lived in the United States. Divorce proceedings had begun and he was experiencing problems in locating his former spouse. The divorce was finally obtained in May 1988 and because of extenuating circumstances in the case no judgement was made against the appellant, in consideration of his former wife about matrimonial property. A subsequent marriage took place in September 1988. The first request that the current

wife be considered beneficiary was registered at that time. The appellant stated that he acted on advice of his solicitor who said that if he delayed making a choice until after May 7, 1990, his former wife would be "statute barred" from any claim. He clearly stated that it was virtually impossible, acting on his own behalf, to get a waiver form from his former spouse. The appellant stated that a senior member of Payroll and Pensions advised him that he would be allowed 30 days in which to act before they contacted his former spouse. He said that he was under the impression there was a deliberate act by the Minister to renege on a previous agreement to accept his current spouse as his beneficiary.

The Minister's representative argued as follows:

The Minister's representative stated that the administration contacted the former spouse after 30 days of their letter. However, he could not confirm the exact date. He went on to explain that regardless of the decision to appeal, the department would have to contact the former spouse for information. He continued by referring to the spousal protection provision in the pension legislation introduced in November 1985. A participant was required to choose a joint-life option reducible by 1/3 with his spouse, unless a waiver form was signed by the spouse or a matrimonial property order obtained. In this case, the appellant retired in May 1987 while he was still legally married to his former spouse. Without a matrimonial property order or waiver form, he was required under section 25(2) of the Act to choose a joint-life pension reducible by 1/3 with his former spouse. He also stated that section 1(1)(s)(iii) of the Act applied to the former spouse in this case. Once it was determined that the appellant had a different legal spouse at the time of retirement, the department felt compelled to contact the former spouse. It was confirmed that pension advances started in May 1987. It was argued that this appeal hinged on the definition of "spouse". Since the appellant had a legal spouse at the time of retirement and could not get a waiver or matrimonial property order, section 25 of the Act simply took over and set out the condition for the pension choice. The Administration confirmed to the Board that "relevant" time meant the time when the appellant applied for pension and the pension payments started May 28, 1987. It was confirmed that pension advances continued for a considerable time until the Administration received the documentation required from the former spouse to finalize the pension option. At that time, the pension was calculated and regular payments started.

The Board noted that matrimonial property was not dealt with by the Courts during the divorce proceedings. The Board determined that the Minister did not deem the pension choice made and allowed the appellant to continue delaying his decision until after his second marriage.

The Board vacated the Minister's decision and granted the appeal on the basis that the spouse was the spouse at the time the actual pension choice was made. Since the pension choice was made after the second marriage, the current spouse, in the Board's view, is the spouse. It was also pointed out that a pension advance was not considered a pension in accordance with section 37(2) of the Act.

Appeal 2 - Leave of Absence

The appellant's representative stated that appellant's employer refused to grant a leave of absence and had no alternative but to resign. However, since she was rehired in her previous position and the time was taken for maternity, she should be entitled to purchase the period for pension purpose.

The Minister's representative provided the following:

The issue of whether or not the appellant was forced to resign from her position was irrelevant to the case. The fact was that she severed her employment for four plus months and was then rehired. In order for a period to be recognized as leave of absence, it had to meet certain criteria. In this case, the criteria was not met and technically, the period of non-employment was not a period of leave of absence. He stated that neither the Minister nor the Board had the authority to permit the period to be recognized as leave of absence for pension purpose.

The Board denied the appeal on the basis that the period was not a leave of absence granted by the employer albeit that the appellant was required to terminate employment at the time for lack of maternity provision.

Appeal #3 - Pension Choice

The appellant expressed a wish to coordinate his pension with both CPP and OAS. He admitted that he had made an error in completing the choice form. In his view, the option form was not clear in that the heading was separated from the body of information. He confirmed that the choice communicated to the Minister was not the one intended and that his personal circumstances had not changed.

The Minister's representative acknowledged that an honest mistake had been made in this case. From an administrative point of view, the Minister could not rectify it. He explained that once an individual went on pension payroll, his pension was finalized and any request for changes had to be dealt with by the Board.

Based on section 10(3) of the Act, the Board granted the appeal on the bases that the choice communicated by the appellant to the Minister was not the one intended and that the appellant's circumstances had not changed.

Appeal #4 - Prior Service Costing

The appellant stated that at the time he joined the Alberta Government, he was not given any information concerning the prior service purchase option. He advised that given the significant financial consideration of prior service purchase, he believed that providing new employees with complete information should have been made a standard practice. He further stated that on leaving his previous employment to join the Alberta Government he was required to withdraw his funds in cash or transfer them to an RRSP within three months of his resignation. He pointed out that his request for the prior service to be calculated at the 1980 salary was supported by his current employer. He advised that the responsibility to ensure that pension information is made available to members was the responsibility of Payroll and Pensions and not solely that of the employee. He believed that the process should be just and calculating his prior service based on his 1990 salary is clearly unfair. He stated that he started to collect prior service information in 1989 after attending a pension seminar and notified Payroll and Pensions in December 1989 that he would like to have his service recognized.

The Minister's representative stated that the regulations stipulated that the service must be calculated based on the salary at time of application. He further pointed out that Payroll and Pensions had checked with the department concerned and was advised that as a standard practice, all employees were given an information package. In terms of general information, the Minister's representative advised that Payroll and Pensions provided some 400 - 500 information seminars to employees and approximately 200 - 300 employer workshops in each year. Information pamphlets and participants' handbooks were also produced for employees' benefit. However, because of the number of participants in the Plan, it would be impossible to provide complete information to all employees who were expected to make themselves knowledgeable of the benefits to which they are entitled.

The Board confirmed the Minister's decision on the basis that the appellant should have been alerted by the information received from his previous employer and should have investigated his rights and privileges under the Public Service Pension Plan. Formal application was made to the Minister in 1990 and the legislation was properly applied by the Minister.

Appeal #5 - Reciprocal Agreement

The applicant stated that he moved from Ontario and started to teach in Edmonton in August 1977. When he first started employment with his current employer, he was put in a wage position and was not eligible to participate in the Public Service Pension Plan. In March 1978, he was offered a salaried position to teach the same class and contributed to the Public Service Pension Plan until June 23, 1978. In August 1978, he was able to secure the same job and remained with his present employer ever

since. The applicant also stated that he wrote the Pension Administration in August 1978 about the transfer, but had not received a reply to that letter. The applicant stated that it was his intention to purchase the service while in a wage position. The wage position service had not been paid for although he had requested a costing of that service.

Payroll and Pensions advised that the terms of the reciprocal agreement had not been met and as there were no extenuating circumstances to warrant an extension of the time limit the application was denied.

The Board extended the one-year application and three-month break in service time limits to allow the transfer based on the following reasons:

1. The applicant's wage period with his current employer is eligible service and he had taken steps to purchase it.

2. He joined his current employer within three months of leaving Ontario, however, was ineligible to transfer the service to the Public Service Pension Plan in August 1988 because his position precluded him from participation.

3. The applicant did enquire about the transfer in August 1978, within one year of joining the exporting plan, but did not receive a response to that enquiry.

ADVICE

The Board is empowered to "advise the Minister respecting any matters relating to the plan" (Section 9 of the Act). These include adequacy of contributions, benefits, actuarial assumptions, rates of interest etc. In total, this covers virtually all aspects of plan administration and fund management. In reviewing the advice offered by the Board, it is appropriate to measure it against some standard or test. The standard used to evaluate the management of a pension plan is the fiduciary standard. It can be argued that the Minister, as the administrator of the plan, is a fiduciary. It can also be argued that the Board through its statutory responsibility to advise the Minister should be judged on the same basis.

A fiduciary is someone who has acquired a position of trust on the condition that he will act in the best interests of another. For a pension plan, the duty of the fiduciary is to act in the best interests of the plan beneficiaries. In the case of the PSPP, the beneficiaries could be argued to include:

(1) The plan member as someone who contributes and expects to receive a benefit from the plan.

(2) The spouse, dependant or estate of the plan member, to the extent they are entitled to a benefit, contingent or vested, under the plan.

(3) The Government as the employer under the plan to the extent that the PSPP may be considered an employer sponsored defined benefit plan.

(4) The taxpayer, through his agent the provincial government, by virtue of the guarantee affixed to the benefit and therefore potential responsibility for any unfunded liability of the plan.

In evaluating the Board's advisory record on the basis of a fiduciary, one can look both at its specific recommendations and its leadership in a broader consultative role. The Board's recommendations can be found in a number of letters and reports to the Minister. **"Working Together...To Secure The Future"** was a report presented to the Minister in May 1990 which proposed a "fix-up" of the PSPP in anticipation of pension reform. The proposals contained in this report and other letters are summarized in Appendix C and include recommendations on:

(1) Funding

(2) Cost of Living Adjustment (COLA)

(3) Pension Reform (Including Participation, Vesting, Locking-in, Credited Interest and Portability)

(4) Prior Service

(5) Division of Pension Benefits on Marriage Breakdown

As a whole, the Board's recommendations advocate greater accountability, more adequate funding, minimized opportunities for selection against the fund, and recognition and management of the risks faced by all "beneficiaries."

In addition to this direct advice, the Board also engages in a broader consultative role. The Annual Seminar provides an opportunity for stakeholders in the various public sector "pension deals" to discuss issues in an open forum. This year's seminar focused on plan governance. As pre-work for the seminar, a discussion paper titled **"Plan Governance: A Framework For Discussion"** was circulated to all participants. Through a series of presentations by outside speakers, panel discussions and workshops, representatives of employees, employers, Treasury, and interested parties were able to speak directly on the issue of governance.

The proceedings of the seminar pointed to a consensus among the participants that governance was important and, given its linkages to all issues facing the plan, should be addressed. The executive summary, **"A Logical Next Step: Developing The Consultative Process,"** focused on what sort of process could be put in place to deal with the issue. Based on the consensus established at the seminar, a proposal was presented to the Minister early in 1991 that the governance and funding of the plan be reviewed. Such a review would allow for input from all "beneficiaries" and enable a consensus to be established regarding these two critical issues.

The Minister did respond and indicated that, in addition to tax reform, other changes related to "financing, benefit and administrative changes" were being considered. At the time of writing, details of the Minister's plan amendments and process for consultation were still forthcoming. It is expected that the proposed changes and anticipated consultations will guide Board activities in 1991.

APPENDIX A

Excerpts from the Act

The following excerpts of the Public Service Pension Plan Act define the make-up and responsibilities of the Public Service Pension Plan Board.

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Public Service Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among persons nominated by the Alberta Union of Provincial Employees.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.

Chairman and Vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of the chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) where appropriate, to extend time limits and treat benefit choices as revoked under section 10;

(d) to exercise and perform any other powers and duties assigned to it by this Act and the regulations;

(e) to perform any other duties relating to the Plan that are assigned to it by the Minister.

Advisory functions of the Board

9 The Board may advise the Minister respecting any matters relating to the Plan, including

(a) the adequacy of contributions to meet benefits,

(b) adjustments to pensions under section 27,

(c) rates of interest for the purposes of the Plan,

(d) benefits,

(e) reciprocal agreements,

(f) recognition of prior service,

(g) eligibility and participation in the Plan, and

(h) the actuarial tables prescribed or to be prescribed by the Minister.

Board's power to extend time limits, etc.

10(1) Where

(a) a person fails to meet a time limit under the Plan,

(b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and

(c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked and substitute for it the choice which, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.

(3) The notice of appeal must specify the decision appealed against and the grounds of appeal.

(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.

(5) For the purposes of conducting an appeal under this section, the Board

(a) has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and

(b) shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.

(6) the Board may confirm, vacate or vary the decision appealed against.

(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

Appeal to the Court of Queen's Bench

36(1) A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.

(2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.

(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.

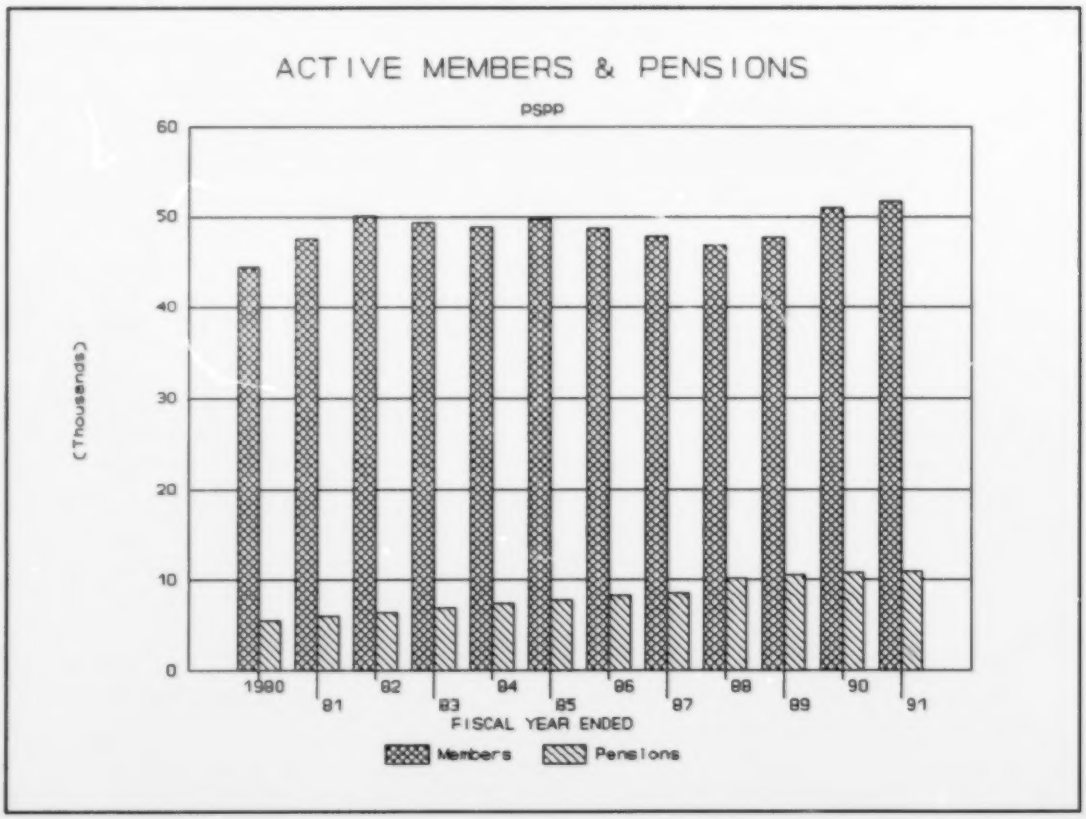
APPENDIX B

Summary of Plan Statistics

Statistics are provided by Payroll and Pensions Division of Alberta Treasury and interpreted by the Alberta Government Pension Boards office.

A. Active Members

Active membership in the Public Service Pension Plan was increased from 44,357 at March 31, 1980 to 51,769 as at March 31, 1991. The following graph shows the relative changes from 1980 through 1991:



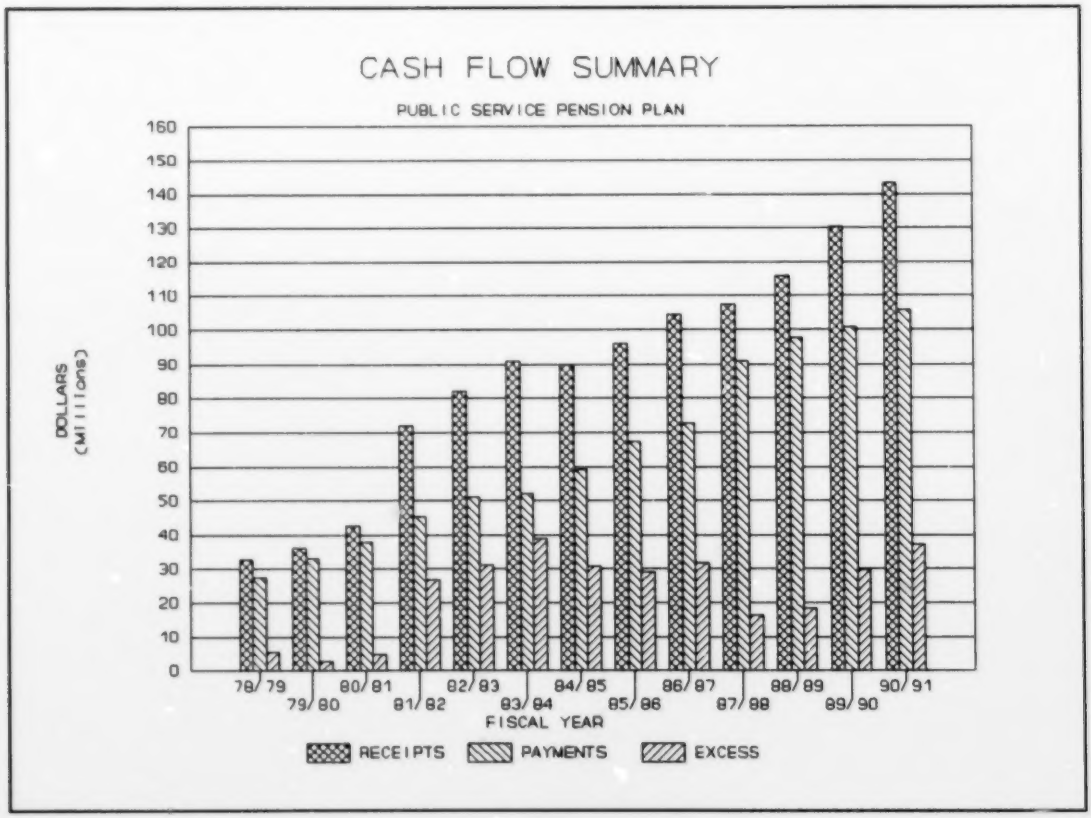
B. Pensions in Payment

Pensions in payment increased from 5,430 at March 31, 1980 to 10,913 as at March 31, 1991. The graph above illustrates the relative increases.

The average pension in payment was $401.01 per month on March 31, 1980 and increased to $681 per month for pensioners and $520 per month for surviving spouses on March 31, 1991.

C. Cash Flow Summary

The graph below reveals that receipts were $32,952,162 for fiscal year 1978/79 and increased to $143,082,000 in fiscal year 1990/91. Payments increased from $27,525,996 in fiscal year 1978/79 to $105,736,000 in fiscal year 1990/91. The excess contributions were $5,426,166 in fiscal year 1978/79 and $37,346,000 in fiscal year 1990/91.



APPENDIX C

Board Recommendations

1. <u>Funding:</u>

Status Quo Employee and employer contribution rates are established within the legislation. Net cash flow (contributions in excess of pension payments) is directed into a common "pension fund" created for five public sector pension plans. The PSPP and the other four plans have accrued a significant unfunded liability. The plan is valued using conservative actuarial assumptions. Using more aggressive assumptions, the PSPP would be close to being fully funded on a "current service" basis.

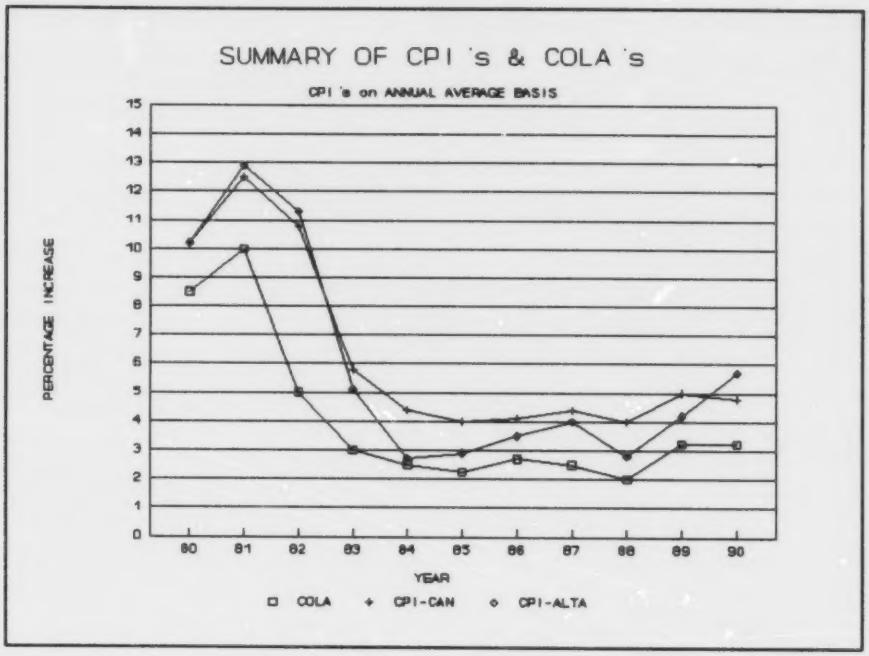
Recommendation

The Board has recommended that there be no contribution increase since the normal cost of the plan using less conservative assumptions would be in line with the current contribution rate. Current service costs, in the future, should be established using realistic assumptions and in consultation with the Board. Once current service costs are established then employer and employee contributions should automatically adjust to meet the normal actuarial costs. The government should make payments to restrict the growth of the unfunded liability over time.

Impact Extra payments by the government towards the unfunded liability would increase the security of the plan and reduce inter-generational transfers by paying for public service costs in the period in which they were consumed. By adopting the funding objective of meeting current service costs, a price discipline will be imposed on the management of the plan. Setting the actuarial assumptions on a joint basis would reflect the shared risk/reward nature of the funding methodology.

2. <u>COLA:</u>

Status Quo Cost of living adjustments to the plan are granted annually (since 1962) by the Minister. The actuarial valuations contemplate a COLA on the basis of 75% of the Consumer Price Index (CPI). The actual COLA that has been granted has fallen short of that target level through out most of the last 10 years.



The graph above shows the COLA's granted on January 1 following the years 1980 through 1990, i.e. the COLA of 3.25% shown for 1990 was granted on January 1, 1991. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1990 is the 4.8% increase in the 1990 average CPI over the 1989 average CPI. During the 11-year period the average annual increases were as follows: Canada CPI - 6.3%, Alberta CPI - 5.9%, COLA's granted - 4.1%. Similarly, during the 5-year period 1986 through 1990 the average annual increases were as follows: Canada CPI - 4.5%, Alberta CPI - 4.0%, COLA's granted - 2.7%.

Recommendation

The Board has recommended that a COLA formula based on 75% of the Alberta Consumer Price Index be encoded into legislation. Based on this formula, the Board recommended that a COLA of 4.2% be granted effective January 1, 1991. The adjustment granted by the Lieutenant Governor in Council was 3.25%.

Impact Encoding COLA would not increase the current service cost of the plan since it has already been taken into account by the actuaries. However, it would strengthen the security of the benefit for which current participants are now being charged.

3. **Pension Reform:**

Status Quo Currently the Plan allows the employer discretion whether or not to allow part time employees to participate. Vesting is based on five years of pensionable service. Pension benefits are "locked-in" when an employee becomes entitled to a pension benefit (i.e. age 55 and 5 years of pensionable service). Credited interest to employee accounts is fixed in legislation at 4%. Transfer of funds is allowed under the terms of a reciprocal agreement or through the withdrawal/transfer of the employee portion and credited interest.

Recommendation

The Board has recommended that:

(a) Participation of all employees in the Plan (except of special categories such as those employed in STEP or PEP program) should be compulsory from date of hire.

(b) Vesting should be based on five years of participatory service.

(c) Locking-in should occur at the same time a person becomes vested under the plan.

(d) When crediting interest to employee accounts, the rate should be at a published market rate such as the annual average yield on the 5-year personal fixed term deposits.

(e) On termination of service, transfer of a vested pension should be the same as required by the Alberta Employment Pension Plans Act.

(f) Current reciprocal agreements should be reviewed with the goal of pricing transfers on a commuted value basis.

Impact These changes would:

(1) Bring the Plan into line with community standards regarding portability, vesting, and credited service.

(2) The Plan would be more equitable in terms of participation and a fairly priced termination benefit.

(3) The Plan would be protected against the import of unfunded liability through reciprocal agreements.

4. **Prior Service:**

Status Quo Currently the plan offers a variety of prior service buy backs. The costs levied vary depending on date of application, the type of service being purchased, or years since the prior service was rendered. The costs do not relate to the resulting increase in pension since the formula for calculating prior service is not based on an actuarial formula. A significant part of the growth in the unfunded liability can be attributed to the prior service costing provisions.

Recommendation

The Board has recommended that recognition of prior service be limited and that pricing of remaining types of service be on an actuarial basis. These changes would be implemented in conjunction with a review of portability under the plan.

Impact The changes would reduce inequities between employees, increase fiscal responsibility, and lower administrative costs.

5. **Division of Pension Benefits on Marriage Breakdown:**

Status Quo Current methods available for dividing pension benefits are Valuation and Accounting and Division of Proceeds. The pension administration will not assign a value to a benefit, therefore on marriage breakdown the parties must seek advice from an independent source.

Recommendation

The Board has recommended the implementation in Alberta of the recommendations of the Institute of Law Research and Reform. Valuations should be available at the request of either the member or former spouse, without the necessity of obtaining an order from the Court. The administration should have authority to "Value and Divide" the pension if all parties agree to the action.

Impact

Using the Valuation and Division approach would serve to increase cash outflow from the Pension Fund in the short run. There would be additional cost in valuing the benefits and actuarially adjusting the employee's benefits at termination, death or retirement. These costs, however, can be charged to the parties when processing specific requests. The net result would be an easier and less costly division for participants and their spouses.

APPENDIX D

Summary of the Annual Seminar

The Annual Seminar, an event hosted by the Alberta Government Pension Boards Office on behalf of all Government Pension Boards, was expanded this year and proved to be very successful. The Seminar focused on a single issue, plan governance. A pre-work discussion paper on plan governance was distributed before the seminar. This put the questions related to plan governance on the table before the seminar began and gave participants an opportunity to develop their thinking before hand. Three panellists were charged with responding to the questions raised by the pre-work.

The question of governance was initially explored by Mr. Keith Ambachtsheer, of Keith P. Ambachtsheer & Associates Inc., a highly respected consultant who was a principal advisor to the influential Ontario Task Force of the Investment of Public Sector Pension Funds. He brought a challenge to the group to look at the issues facing them with an open mind. He encouraged the interaction of all parties involved in pensions with each other to bring about an acceptable and stable system. Mr. Ambachtsheer left two questions with the group.

1. "Should Alberta institute a formal process to decide how to best deliver public service pensions in the 1990's and beyond, keeping in mind the interests of both Alberta public servants and taxpayers?

2. What kind of process is most likely to answer question 1?"

From the practical point of view of governance, Mr. A. W. Reeve, Executive Director of OMERS, presented the experience of a self-administered public sector plan. He pointed out that OMERS was an administrative board with a professional staff which is responsible for the total operation of the plan, from everyday administration to investments and investment policy. OMERS has grown from a 1 billion dollar fund in 1963 to an 13 billion dollar fund in the 1990's.

Mr. A. D. O'Brien, Deputy Provincial Treasurer, addressed the seminar on the fiscal framework of governance from the perspective of the Alberta Government. After reviewing the history of the system in Alberta he stated that the Government was very concerned about the growing liabilities and demands made for increased benefits. He concluded that "decision making power should be apportioned according to who bears the financial risk." He stated that "The Government is not willing to expose itself to increased risk without mechanisms to ensure that experience shortfalls and benefit improvements are covered."

In addition to the panel, there were presentations on the administration of the plan, investment management of the pension fund and the advisory/quasi-judicial roles of the Boards. Of particular interest was the discussion by Professor John M. Law of the University of Alberta on the quasi-judicial and fiduciary responsibilities assigned to the Pension Boards. He concluded that even if the Boards are not considered fiduciaries, they must exercise a fiduciary standard when providing advice to the Minister on matters relating to the plan. They must make their recommendations taking into consideration the continuing life of the plan, the beneficiaries of the plan and the taxpayers. With regards to the Boards' quasi-judicial role, Professor Law noted that the Courts were willing to acknowledge the Boards' expertise in dealing with pension disputes. Citing from recent court decisions, he stated that the Courts have concluded that a court "should not interfere with an interpretation made by bodies having the expertise...in an area within their jurisdiction unless the interpretation is not reasonable or is clearly wrong." [Alberta Court of Queen's Bench, November 6, 1990, The Queen v. Palsat and the Public Service Management Pension Plan Board, Unreported].

Workshops were used to facilitate discussion among participants. Each group was asked to comment on the issues raised by the speakers and respond with its view of what should be the next step. It was from this feedback that the proposal, noted in the section Advice, was drafted for a process for consultation and was forwarded to the Minister. It was the view of seminar participants that issues such as funding could not be dealt with in isolation of governance. Further, the issues of funding and governance should be dealt with. Finally, a process of consultation should be put in place to address the issues.